

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4085 OF 2002

1. The Government of Maharashtra,
Energy Department, Mantralaya,
Mumbai 32,
2. The Government of Maharashtra,
Irrigation Department,
Mantralaya, Mumbai – 32
3. The Executive Engineer,
Bhandardara Hydro Electric
Division, 47 K Parekh House,
2nd floor, P.Demelo Road,
Mumbai – 9

– PETITIONERS

VERSUS

1. Ahmednagar Zilla Raste,
Imarati wa Patbandhara Kamgar
Union, 'Shramik', Tilak Road,
Ahmednagar,
2. Balu Dada Gunjal,
Age-Major, Occu-Service,
R/o Bhandardara, Tal.Akole,
Dist.Ahmednagar

– RESPONDENTS

Mr.N.T.Bhagat, AGP for the petitioners.
Mr.S.T.Shelke, Advocate for respondent No.1.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 08/05/2019

ORAL JUDGMENT :

1. The petitioners are original respondents in Complaint (ULP)

No.142/1991 filed by respondent No.,1 Union in its representative capacity. The Union alone was the complainant and as such can be arrayed as a respondent in this petition. Respondent No.2 Balu cannot be arrayed as a respondent since he is a part of the 9 workers mentioned in Annexure A to the ULP complaint filed by the sole complainant/Union.

2. Learned AGP on behalf of the petitioners submits that they have implemented the impugned judgment to the extent of 8 employees out of the 9 mentioned in the annexure as these 8 workers are actually Wiremen and they have a right to avail of the benefits as Wiremen flowing from the Kalelkar Settlement. Balu is not a Wireman and if he is not a Wireman, he cannot be allotted work of a Wireman as it is illegal. He is, therefore, given the benefits of the Kalelkar Settlement as a helper, which he was when the ULP complaint was filed.

3. Learned Advocate for the original complainant/Union submits that this petition can be disposed off and liberty can be granted to Balu Dada Gunjal to approach petitioner No.3 by making an application alongwith all documents to indicate whether he is a trained Wireman. Such application can be filed within a time frame

and the petitioners can decide his representation within a particular period.

4. In view of the above, this petition is partly allowed with the following directions :-

[a] The impugned judgment has been implemented by the petitioners as against 8 of the workers mentioned in Annexure "A", save and except Balu Dada Gunjal.

[b] Balu Dada Gunjal is permitted to make a representation to respondent No.3, on or before 10/07/2019, to point out as to whether he is a qualified Wireman and was working as a Wireman when the ULP (complaint) was filed.

[c] Respondent No.3 shall consider his application and the accompanying documents if any, and shall rely upon its records to assess as to whether Balu was in fact a trained Wireman and was working as a Wireman.

[d] If need be, an opportunity of personal hearing would also be granted by petitioner No.3 to Balu Dada Gunjal by serving a notice on him and giving him a reasonable time to cause his appearance.

[e] After the scrutiny of the representation, documents and after the personal hearing is concluded, if the petitioners conclude that Balu was a Wireman, the benefits of the impugned judgment would

be made applicable to him as per the directions set out in the judgment. If it is noticed that he is not a Wireman, petitioner No.3 shall pass an appropriate order and the impugned order of the Industrial Court would then lose its efficacy to the extent of Balu Dada Gunjal. Needless to state, if Balu is aggrieved by any decision of petitioner No.3, he would be at liberty to take recourse to a remedy as may be permissible in Law.

5. Criminal Complaint (ULP) No.35/2001 pending before the 2nd Labour Court, Ahmednagar shall stand stayed till the decision is taken by petitioner No.3 subject to the above directions. If Balu is finally held to be not a Wireman, Criminal Complaint (ULP) No. 35/2001 shall stand disposed off as the effect of the impugned judgment of the Industrial Court would not apply to the case of Balu.

6. Rule is made partly absolute in the above terms.

(Ravindra V.Ghuge, J.)